



**Rule(s) Review Checklist Addendum**  
(This form must be filled out electronically.)

**This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended/repealed subsequent to that review.**

All responses should be in **bold** format.

Document(s) Reviewed (include title): **WAC 458-20-17902 (Brokered natural gas--Use tax.)**

Date last reviewed: **October 1999**

Reviewer: **Mark Mullin**

Date current review completed: **May 9, 2003**

Briefly explain the subject matter of the document(s): **This rule provides information about the use tax imposed by the state and cities under RCW 82.12.022 and 82.14.230 on the use of natural gas purchased by a consumer from a source outside of Washington and delivered to the consumer in this state ("brokered natural gas"). The use tax on brokered natural gas applies when the person who sold the gas has not paid public utility tax under RCW 82.16.020 with respect to the gas. The rule provides information about credits against the use tax. The rule also provides information about the reporting requirements for persons delivering brokered natural gas, and it also provides tax reporting and payment information for consumers of brokered natural gas.**

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

**1. Public requests for review:**

YES	NO	
	<b>X</b>	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If "yes," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

**2. Related statutes, interpretive and/or policy statements, court decisions, BTA decisions, and WTDs:** (Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins (PTAs/PTBs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.)

YES	NO	
	<b>X</b>	Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?



	X	Are there any interpretive or policy statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive or policy statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
X		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
	X	Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive or policy statement.)

If the answer is "yes" to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

**The following determination was published following the previous review of this rule and contains information that should be incorporated into the rule:**

- **Det. No. 91-131, 20 WTD 134 (2001) (taxpayer requested a ruling by the Department to determine what is the proper amount upon which to compute the use tax on brokered natural gas).**

**3. Additional information:** Identify any additional issues (other than those noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

**RCW 82.12.022 was amended in 1994 to provide that the use tax on brokered natural gas does not apply to gas that is delivered to the consumer by other means than through a pipeline. This amendment should be incorporated into the rule. Gas delivered to the consumer by means other than through a pipeline would be a retail sale. Incorporating some examples of retail sales of gas into this rule would provide useful information.**

**The information contained in RCW 82.12.023 should also be incorporated into the rule. RCW 82.12.023 provides that the use tax levied by RCW 82.12.020 does not apply in respect to the use of natural or manufactured gas that is subject to the use tax under RCW 82.12.022.**

**This rule is generally clear and concise. However, the definition section could be eliminated and the definitions of "brokered natural gas" and "value of gas consumed or used" incorporated elsewhere in the rule as necessary, possibly in a question-and-answer format.**



On a related matter, the term "brokered natural gas" may be outdated. As a result, consideration should be given to deleting the term "brokered natural gas." In addition, an introduction section should be added to the rule.

A question often received by the Department is whether the use tax is due on natural gas that is purchased from outside of this state, delivered to the buyer in this state by pipeline, and consumed in this state to generate electricity at a gas turbine generating facility. The answer is yes. It may be helpful to incorporate this information into the rule as an example.

**4. Listing of documents reviewed:** The reviewer need identify only those documents that were not listed in the previous review of the rule(s). Use "bullets" with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented: **None.**

Interpretive and/or policy statements (e.g., ETAs, PTAs, and IAGs): **None.**

Court Decisions: **None.**

Board of Tax Appeals Decisions (BTAs): **None.**

Appeals Division Decisions (WTDs):

- **Det. No. 91-131, 20 WTD 134 (2001) (taxpayer requested a ruling by the Department to determine what is the proper amount to compute the use tax on brokered natural gas).**

Attorney General Opinions (AGOs): **None.**

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed): **None.**

## **5. Review Recommendation:**

- |               |   |
|---------------|---|
| <u>  X  </u>  | <b>Amend</b>  |
| <u>      </u> | <b>Repeal/Cancel</b> (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.) |
| <u>      </u> | <b>Leave as is</b> (Appropriate even if the recommendation is to incorporate the current information into another rule.)                              |
| <u>      </u> | <b>Begin the rule-making process for possible revision.</b> (Applies only when the Department has received a petition to revise a rule.)              |



**Explanation of recommendation:** Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).

**This rule should be amended to incorporate: (1) legislation that amended RCW 82.12.022; information contained in RCW 82.12.023; and information contained in Det. No. 91-131, 20 WTD 134 (2001). The rule should also be amended to address the issues identified in section three of this rule. Finally, as noted in the previous review, this rule should be amended to more fully incorporate the provisions of RCW 82.12.022, the underlying statute, particularly with respect to manufactured gas.**

**6. Manager action:** Date: 6/4/03

AL Reviewed and accepted recommendation

Amendment priority:

     1  
     2  
  X   3  
     4